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13 County of Contra Costa, County of Fresno,  
14 County of Kern, County of Madera, County of  
15 Merced, County of Orange, County of Plumas,  
16 County of Riverside, County of San Bernardino,  
17 County of San Joaquin, County of Stanislaus,  
18 and County of Tulare

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 (OAKLAND DIVISION)

14 BNSF RAILWAY COMPANY,

15 Plaintiff,

16 vs.

17 ALAMEDA COUNTY, CALIFORNIA, et al.,

18 Defendants.

No.: Case No. 4:19-cv-07230-HSG

**STIPULATION AND ORDER SETTING  
SCHEDULE FOR FURTHER  
PROCEEDINGS**

Judge: Hon. Haywood S. Gilliam, Jr.

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28 STIPULATION AND ORDER  
SETTING SCHEDULE FOR  
FURTHER PROCEEDINGS –  
NO. 4:19-cv-07230-HSG

**STIPULATION**

WHEREAS, on April 8, 2021, this Court granted Plaintiff BNSF Railway Company's ("BNSF") Motion for Preliminary Injunction and enjoined the defendant counties "from levying or collecting ad valorem property taxes from Plaintiff on its unitary property based on a tax rate higher than the annual average tax rate of general property taxation calculated and reported for each county by the California State Board of Equalization under Cal. Rev. & Tax Code § 11403" through the pendency of the proceedings;

WHEREAS, on May 7, 2020, thirteen<sup>1</sup> of the fifteen Defendant Counties jointly filed a timely notice of appeal from the District Court's order;

WHEREAS, on May 7, 2020, San Diego County separately filed its notice of appeal;

WHEREAS, Kings County chose not to pursue an appeal of this Court's ruling on BNSF's Motion for Preliminary Injunction;

WHEREAS, on August 5, 2021, the Ninth Circuit Court of Appeals upheld this Court's issuance of its preliminary injunction;

WHEREAS, according to Federal Rule of Appellate Procedure 41 and Ninth Circuit Rules 41-1 & 41-2, the Ninth Circuit mandate on its ruling will issue on August 26, 2021;

WHEREAS, given that each of the fourteen Defendant counties that appealed this Court's order must seek direction on next steps in this litigation from each of their respective Boards of Supervisors, the parties have agreed to seek a stay of proceedings in this Court once mandate issues in order to provide Counties sufficient time to receive such direction;

WHEREAS, because no case management conference is currently scheduled addressing proceedings following the ruling on appeal in the Ninth Circuit, this requested time modification would not affect the current schedule of the case.

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<sup>1</sup> Those thirteen counties are: Alameda, Contra Costa, Fresno, Kern, Madera, Merced, Orange, Plumas, Riverside, San Bernardino, San Joaquin, Stanislaus, and Tulare.

1 NOW THEREFORE, IT IS STIPULATED AND AGREED, by and between Plaintiff  
2 and Defendants, and subject to approval of the Court, that:

3 (1) Proceedings in this Court shall be stayed on remand until a case management  
4 conference can be held;

5 (2) The parties will submit a Joint Case Management Statement to this Court on or  
6 before October 29, 2021; and

7 (3) The parties request that the Court set the next case management conference at its  
8 convenience.

9 Pursuant to Local Civil Rule 6-2(a)(2), the parties disclose that they previously agreed,  
10 and this Court ordered, (1) that the deadline for Defendants to file their Opposition to Plaintiff BNSF's  
11 Motion for Preliminary Injunction should be extended to February 3, 2020 and the deadline for  
12 Plaintiff BNSF to file its Reply in support of its Motion for Preliminary Injunction should be extended  
13 to February 20, 2020; (2) that the deadline for Defendants to file their Opposition to Plaintiff BNSF's  
14 Motion for Preliminary Injunction should be extended to February 10, 2020, and (2) that the Case  
15 Management Conference should be continued to March 5, 2020 to coincide with the hearing on  
16 Plaintiff BNSF's Motion for Preliminary Injunction, and the parties' Case Management Statement  
17 including the Rule 26(f) report should be filed by February 27, 2020. In addition, the parties  
18 previously agreed to extend Defendants' deadline to respond to the Complaint to January 31, 2020 and  
19 then to February 14, 2020.

20 Dated: August 19, 2021

Respectfully submitted,

21 OLSON REMCHO, LLP

22 By: /s/ Margaret R. Prinzing

23 Attorneys for Defendants County of Alameda,  
24 County of Contra Costa, County of Fresno,  
25 County of Kern, County of Madera, County of Merced,  
26 County of Orange, County of Plumas, County of  
27 Riverside, County of San Bernardino, County of  
28 San Joaquin, County of Stanislaus, and County of  
Tulare

1 Dated: August 20, 2021

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2  
3 By: /s/ Benjamin J. Horwich

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11 Attorneys for Plaintiff BNSF Railway Company

12  
13 Dated: August 20, 2021

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14 By: /s/ Laura E. Dolan

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19 Attorneys for Defendant County of San Diego

21 PURSUANT TO STIPULATION, IT IS SO ORDERED.

23 Dated: 8/23/2021

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HON. HAYWOOD S. GILLIAM, JR.  
UNITED STATES DISTRICT COURT JUDGE